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SECRETARY OF STATE

MATT BLUNT

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

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EDITORS

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JAMES MCCLURE

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SANDY SANDERS

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

EMERGENCY AMENDMENT

13 CSR 70-10.150 Enhancement Pools. The division is amending section (1).

PURPOSE: This amendment changes the dates in order for the Division of Medical Services to implement the enhancement pool for State Fiscal Year 2003.

EMERGENCY STATEMENT: This emergency amendment authorizes the payments from the enhancement pools for State Fiscal Year 2003. Absent this emergency amendment, the Missouri Division of Medical Services will be precluded from maximizing federal participation in funding of the medical assistance program which will cause a financial strain on all nursing facilities which serve Medicaid recipients. As a result, the Division of Medical Services finds it necessary to preserve the compelling governmental interest of protecting senior Missourians living in nursing facilities. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protection extended in the *Missouri* and *United States Constitutions*. The Division of Medical Services believes this emergency amendment

is fair to all interested persons and parties under the circumstances. This emergency amendment was filed October 29, 2002, effective November 8, 2002 and expires May 6, 2003.

(1) Medicaid Enhancement Pools. Subject to federal approval, the Division of Medical Services shall administer two (2) enhancement payment pools to pay for services covered by the Missouri Medicaid program. The total payment from the pools shall not exceed the difference between the Medicare upper limit and the per-diem reimbursement for all Medicaid nursing facilities for services covered by the Missouri Medicaid program. The Medicaid enhancement pools shall be calculated and distributed in the manner described below.

(A) Government-owned nursing facilities may elect to participate in the funding and distribution of the first enhancement payment pool in accordance with an intergovernmental funds transfer agreement executed with the Department of Social Services.

1. The distribution from the first pool shall be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid nursing facilities **through September 30, 2002, and for nonstate government-owned nursing facilities only after September 30, 2002**, as follows:

A. For State Fiscal Year 2001 the aggregate difference shall be calculated for the period August 1, 2000–June 30, 2001.

B. For State Fiscal Year 2002 the aggregate difference shall be calculated for the period July 1, 2001–June 30, 2002.

C. For the period July 1, 2002–September 30, 2002 the aggregate difference between the Medicare Upper Limit and per-diem reimbursement shall be calculated using data for all Medicaid nursing facilities.

D. For the period October 1, 2002–June 30, 2003 the aggregate difference between the Medicare Upper Limit and per-diem reimbursement shall be calculated using data for nonstate governmental owned nursing facilities only.

2. The pool shall be distributed to participating government-owned nursing facilities based on a quarterly amount, based on their pro rata share of Medicaid patient-days.

(B) All Medicaid enrolled nursing facilities may participate in distributions from the second enhancement payment pool, for State Fiscal Year *[2002]* 2003 after September 30, 2002, if there are state funds available.

1. The distributions from the second pool *[shall]* may be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid enrolled nursing facilities, for the period July 1, *[2001]* 2002–June 30, *[2002]* 2003.

2. The second pool *[shall]* may be distributed based on a **monthly or** quarterly amount, made in addition to per-diem payments, to all Medicaid enrolled nursing facilities, applicable to services provided in State Fiscal Year *[2002]* 2003, based on their pro rata share of Medicaid days. **A distribution will not be made based on more than a quarterly amount. A distribution will be prorated if enrollment in the Medicaid program is not maintained by the nursing facility for the full quarter.**

3. For State Fiscal Year 2003, an add-on payment, if state funds are available, may be distributed based on a monthly or quarterly amount to all Medicaid enrolled nursing facilities applicable to services provided in State Fiscal Year 2003, based on their pro rata share of Medicaid days as defined in subsection (1)(C). If a nursing facility is eligible to receive an add-on payment and does not have any paid Medicaid patient days in State Fiscal Year 2002, that facility's Medicaid days will be determined from the previous quarter of the quarter in which the add-on payment is made.

(C) The aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for Medicaid nursing facilities will be calculated on an annual basis. The per-diem Medicaid rates used in the calculation will be those being paid at the time of the calculation and the Medicare Upper Limit will be based on the current RUGS system of Medicare nursing facility reimbursement with appropriate adjustments to assure comparability with the Medicaid rate. The difference will be calculated on a facility basis and multiplied by the reported Medicaid days at the particular nursing facility for the most recent cost report year. The product of all calculations will be added together to obtain the aggregate difference. Medicaid days will be determined from the paid day report from Missouri's fiscal agent for pay cycles during the State's Fiscal Year [2001] 2002.

*AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Nov. 3, 2000, effective Nov. 13, 2000, expired May 11, 2001. Original rule filed Nov. 13, 2000, effective May 30, 2001. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Oct. 29, 2002, effective Nov. 8, 2002, expires May 6, 2003. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*